



4TH ANNUAL REPORT

OHIO CIVIL RIGHTS COMMISSION
OF THE

JULY 1963

**240 PARSONS AVENUE
COLUMBUS, OHIO**

OHIO CIVIL RIGHTS COMMISSION

FOURTH ANNUAL REPORT

JULY 1, 1962

through

JUNE 30, 1963

FOREWORD

This Fourth Annual Report of the activities and program of the Ohio Civil Rights Commission is written during a period of substantial change in the nature of race relations in all parts of the United States, including Ohio. There is no need to belabor the reader with a recitation of the dramatic events which have taken place in numerous communities—highlighted in, but not restricted to, the South. The lack of readily available, reasonably prompt, and equitably administered redress of grievances by means of established legal procedures has given rise to alternative means of redress, such as mass marches, picket lines, "sit-ins," and other demonstrative activities. Hopefully, the crises which have occurred in numerous communities will be followed by a just resolution of the underlying grievances. Nevertheless, a community may consider itself fortunate if its panoply of public services includes effective means of enforcing a public policy of non-discrimination, so that remedial measures may be accomplished with a minimum of tension and community divisiveness.

Realistically, of course, no complete elimination of "direct action" techniques is feasible, nor is it desirable in a free society which cherishes the freedom of expression. Thus, Ohio has been the site of "direct action" protests based upon several factors, including the absence of means of legal redress, in connection with housing discrimination. The hard fact also remains that, despite fair employment legislation, unemployment in the Negro work-force is approximately double that of the white work-force and there is still substantial exclusion of Negroes from many areas of employment. The Ohio Civil Rights Commission believes that it has an increasingly vital role to play and that all segments of government have been confronted with immediate challenges as to whether or not the principles of equality are to be implemented in practice.

James A. Rhodes
Governor

Hon. John W. Brown
President
Ohio Senate

Hon. Roger Cloud
Speaker
Ohio House of
Representatives

Pursuant to Section 4112.04 (A) (8) of the Revised Code, the Ohio Civil Rights Commission respectfully submits this report of its fourth year's activities ending June 30, 1963. The Commission's Survey of Discrimination in Housing in Ohio, issued January 1963, has been previously submitted.

DR. ARTHUR L. PETERSON
Chairman

The State of Ohio has responded affirmatively in the areas of employment and public accommodations. The Ohio Civil Rights Commission, as the administrative agency charged with the implementation of Ohio's public policy, views its responsibilities as a privilege and respectfully submits this report to the Governor and to the General Assembly in order to illustrate its program, progress and—admittedly—its problems.

REPORT OF COMMISSION ACTIVITIES

Jurisdiction and Procedures

The jurisdiction of the Ohio Civil Rights Commission derives from the Ohio Revised Code, Sections 4112.01 through 4112.08 and 4112.09, as amended in 1961, as well as from the Executive Order of Fair Practices, issued by Governor James A. Rhodes, on June 23, 1961.

Unlawful Discriminatory Employment Practices

The Ohio Fair Employment Practices Act declares the following to be "unlawful discriminatory practices" *when based upon race, color, religion, national origin or ancestry*:

- (A) For any employer¹ to refuse to hire or otherwise to discriminate against any person with respect to hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment (except in connection with domestic workers);
- (B) For an employment agency to refuse or fail to accept, refer, classify properly or refer for employment, or otherwise to discriminate against any person, or to comply with a request of an employer for referral of applicants if the request is directly or indirectly that the employer fails to comply with the provisions of the Ohio Fair Employment Practices Act;
- (C) For any labor organization to limit or classify its membership or to discriminate against any person or limit his employment opportunities, or otherwise adversely affect his status;
- (D) For any employers, labor organization, or joint labor-management committee controlling apprentice training programs to discriminate against any person;
- (E) For any employer, employment agency or labor organization (prior to employment or admission to membership) to attempt to elicit information relative to the applicant's color, religion, national origin or ancestry, directly or indirectly.

¹ Employer "includes the state, or any political or civil subdivision thereof, or any person employing four or more persons within the state, and any person in the interest of an employer, directly or indirectly". (Revised Code, Section 4112.01)

- (F) For any person seeking employment to publish or cause to be published any advertisement which specifies or in any manner indicates his race, color, religion, national origin, or ancestry, or expresses a limitation or preference (except domestic workers);
- (G) For any person to discriminate in any manner against any other person because he has opposed an unlawful discriminatory practice;
- (H) For any person to aid, abet, incite, compel, or coerce the doing of any unlawful discriminatory practice, or to obstruct or prevent any person from complying with the Act.²

Enforcement of Employment Provisions

In discharging its regulatory functions, the Commission is authorized to receive, investigate and pass upon written charges, made under oath, of unlawful discriminatory practices.³ Such a charge must be filed no later than six months after the alleged discriminatory act. In addition, the Ohio FEPA authorizes the Commission to initiate and undertake on its own motion investigations of problems of employment discrimination, as well as to conduct preliminary investigations relative to specific respondents.

All charges which are not invalid on their face, are investigated and, on the basis of the facts obtained, the Commission, may make a finding of:

- (a) No probable cause to credit the allegation; or
- (b) Probable cause to credit the allegation.

If probable cause is found, the Commission endeavors to eliminate the unlawful discriminatory practice or practices by informal and confidential methods of conference, conciliation and persuasion. If these methods fail, the Commission may issue a formal complaint and notice of hearing. If the hearing substantiates that the respondent is engaging in any unlawful discriminatory practice, a cease and desist order may be issued. Respondents and complainants may obtain judicial review of the Commission's actions and the Commission may obtain judicial enforcement of its orders.

The investigatory and conciliatory procedures are set forth in greater detail in the "Rules and Regulations" of the Commission which may be obtained from any regional office.

² This digest is not exhaustive. Persons desiring additional information may obtain the full text of the law from any office of the Commission.

³ Persons filing charges are designated as "complainants". Those against whom charges are filed are designated as "respondents".

Enforcement of Public Accommodations Provisions

Unlawful discriminatory practices by places of public accommodation are specified as follows:

"It shall be an unlawful discriminatory practice . . . For any proprietor or his employee, keeper, or manager of place of public accommodation to deny to any person, except for reasons applicable to all persons regardless of race, color, religion, national origin, ancestry, the full enjoyment of the accommodations, advantages, facilities, or privileges thereof". (Revised Code, Section 4112.02)

Places of public accommodation include:

" . . . Any inn, restaurant, eating house, barbershop, public place by air, land or water, theater, store, or other place for the sale of merchandise, or any other place of public accommodation or place where the accommodation, advantages, facilities or privileges thereof are available to the public". (Revised Code, Section 4112.02)

The enforcement procedures set forth above regarding unlawful employment practices are, by statute, applicable to the enforcement of public accommodations provisions. A major difference, however, is that the Commission may investigate charges regarding public accommodation only upon the receipt of an affidavit and not upon its own motion, as in the case of employment.

Case Intake and Disposition

A total of 688 allegations of discrimination, concerning both employment and public accommodations, were received during the reporting period of July 1, 1962 through June 30, 1963.

These included 203 new charges, supported by affidavits or in support of the Commission, in connection with employment and 122 new charges supported by affidavits, in connection with public accommodations. An additional 363 charges in both categories were received which were deemed invalid on their face or which were not supported by affidavits accounting for the above total of 688).

In addition, 242 charges were carried over from the prior reporting periods including 119 in which compliance reviews were being conducted. The overall total (930) exceeded the combined total for the last (866) by 64.

688	203
- 363	122
(930)	325

**TOTAL INTAKE OF CASES
(August 1959-June 1963)**

	AUGUST 1959 THROUGH JULY 1960	AUGUST 1960 THROUGH JULY 1961	AUGUST 1961 THROUGH JUNE 1962	JULY 1962 THROUGH JUNE 1963
New Allegations (Employment & Public Accommodations)	160	498	755	688
Carried over from prior year	57	111	242	930
Total	160	555	866	930

(Note: Figures include public accommodations cases only since October, 1961.)

The following dispositions were made of all charges received during the current reporting period or carried over from the prior reporting period.

	EMPLOYMENT	PUBLIC	TOTAL
Invalid Allegations or No Affidavit Received ⁵	321	42	363
Under Investigation (as of June 30, 1963)	92	54	146
Compliance Being Reviewed ⁶ (following conciliation)	41	78	119
Compliance Obtained ⁷ Case closed	135	57	192
Charges Dropped (No probable cause or other reasons ⁸)	91	19	110
TOTAL	680	250	930

(Total includes new charges and old cases continued from previous reporting period)

⁴ Reporting period adjusted to coincide with fiscal year.

⁵ Invalid allegations refer to charges which, even if true, would not constitute violations of law. "No affidavit obtained" refers to charges which were not supported by affidavit and which did not warrant initiation by the Commission.

⁶ "Compliance being reviewed" includes cases in which a finding of probable cause had been made in which the implementation of remedial measures is currently under review.

⁷ "Compliance obtained—case closed" indicates that appropriate and sufficient remedial measures have been implemented and no additional reviews were deemed necessary.

⁸ "Charges dropped" includes cases in which the Commission found no probable cause to support the charges, as well as cases in which the complainants elected to withdraw their charges.

The Commission's case load has continued to represent a geographic cross-section of the State of Ohio as well as a cross-section of community and industry, although a predominant number of cases have emanated from the more heavily industrialized areas in which minority groups are concentrated.

Respondents have included employers, labor unions, employment agencies, apprenticeship committees and governmental agencies. The force of the respondents has ranged from the minimum of four (with one required for the Commission to exercise jurisdiction) to work force of into the thousands. Areas of business enterprise have included, in the past, a diversity of light, medium and heavy manufacturing, utilities, local and chain retail stores, governmental service, as well as skilled, semi-skilled and unskilled jobs and trades. Race and color cited most frequently by complainants as the bases for alleged discrimination.

EMPLOYMENT

BASIS OF CHARGE	NO. OF CHARGES RECEIVED IN REPORTING PERIOD	PERCENT OF CHARGES RECEIVED REPORTING PERIOD
Race and Color	175	86
Religion, National Origin and Ancestry	11	6
Other (Illegal Inquiries about one or more of the above, or failure to post required notice	17	8
TOTALS	203	100

PUBLIC ACCOMMODATION

Race and Color	119	98
Religion, National Origin or Ancestry	3	2
TOTALS	122	100

All cases in which "probable cause" was found (concluded during current reporting year) were resolved by means of informal conference, mediation, and persuasion.

Written "conciliation agreements", stipulating the terms and conditions on which the resolution of a case has been based, as well as the obligation

of the respondent to the specific complainant and to others of his group, were used extensively and successfully.

No formal hearings relative to employment were required to be held during the current reporting period. Several had been scheduled but were made unnecessary as a result of subsequent negotiations.

Other sections of this Fourth Annual Report include summaries of several illustrative cases as well as an illustrative conciliation agreement. These will, in conjunction with the foregoing statistics and narrative, provide a meaningful cross-section of the Commission's methods and results in the implementation of Ohio's anti-discrimination statutes.

ILLUSTRATIVE CASE SUMMARIES — EMPLOYMENT

I

Responding to a newspaper advertisement, a young Negro woman applied for factory work at a medium-sized manufacturer. She was interviewed and told that she would be notified if needed. The applicant returned a week later because the newspaper advertisement had continued to run and noticed that a number of persons were also applying for work. She was told, again, that the firm would call her if needed. This process continued for several weeks, at which time the applicant learned from some white employees of the company that the company hired only white females for production work and that only two Negro women had been employed, as matrons. The woman, therefore, filed a charge with the Commission.

The Commission's investigation verified that the company employed only two Negro females, as matrons, among hundreds of female employees. The work force of the company fluctuated on a seasonal basis and female employment ranged from 200 to 900. Male employment, however, was predominantly Negro. It was established that the company had not hired Negro females in production jobs because it feared the reaction of the white female employees. The Commission counseled the firm on this matter, and a conciliation agreement was entered into wherein the company agreed to hire all employees on a non-discriminatory basis and to inform all of its supervisors and its bargaining agent of this policy. In addition, the company hired the complainant with back-pay and seniority, as compensation for the wages and seniority which she would have accrued had she not been denied employment because of her race. Some 80 additional Negro women were also hired within a two-month period, as a result of the implementation of non-discriminatory employment policies.

II

A white person received legal redress after filing a charge of discrimination on the basis of race and color against her employer as well as

against the real estate board in her city. The complainant alleged that she was to be dismissed from employment by the realtor for whom she worked because of failure to pay her dues to the real estate board. The realtor, however, also had in his employ a Negro saleswoman, whose application for membership in the local real estate board had been refused, apparently because of her race. The Commission's investigation substantiated allegations and also established that the Negro sales person, because of her involuntary non-membership in the local real estate board, was required to pay dues and was not threatened with dismissal. The white employee, it was determined, was being treated differently with respect to employment than the Negro employee because of her race. Both, however, were put at a disadvantage inasmuch as the white employee faced dismissal and the Negro employee could not share in the benefits of membership in the real estate board.

As a result of ensuing conciliation efforts, the real estate board agreed to admit the Negro saleswoman to membership and she subsequently became the first Negro member of this professional trade association in the community. The complainant, in view of the elimination of the prior discriminatory practices, rejoined the real estate board and agreed to pay dues.

III

A Negro employee with more than fifteen years seniority was dismissed by an auto supply company doing business throughout Ohio. He alleged that his dismissal had been based upon race, rather than upon business conditions as the company had contended.

The Commission's investigation, including an examination of relevant records and interviews with managerial personnel, established that other jobs were available which the complainant was qualified to perform at the store from which he had been dismissed. It was also found that the manager who had dismissed the complainant adhered to rigidly discriminatory policies in the recruitment, selection, hiring, training, evaluation, assignment, transfer and upgrading of new and incumbent Negro employees and had, therefore, ignored the complainant's substantial seniority.

A finding of probable cause resulted and a conciliation proposal was submitted to the respondent, stipulating that an affirmative statement of non-discrimination be distributed to all of the firm's Ohio stores and supervisory employees, and that all sources of recruitment be similarly advised. The conciliation agreement also specified that the respondent reinstate the complainant and compensate him for the back wages and various compensation benefits which he had lost as a result of his discriminatory dismissal.

These provisions were accepted and the complainant was reinstated. Reviews will be conducted to verify the firm's continuing compliance with the Ohio Fair Employment Practices Act.

IV

The Ohio Fair Employment Practices Act defines the word "discriminate" to include the practice of segregating or separating employees on the basis of race.⁹ This provision was invoked in a case involving a major fashionable restaurant, resulting in the abandonment of discriminatory practices.

The matter came to the Commission upon the charge of a Negro who had responded to an advertisement for a position as watchman. He was subsequently called and instructed to report for work at a specific time and place. When he arrived, however, he was told that the job had been filled. The Commission's investigation established that his application had been accepted and marked "good" by a personnel interviewer who was temporarily replacing the regular interviewer. When the regular employee returned to work, she called the complainant to work on the basis of his application form and the favorable remarks which had been appended. When he appeared and the regular interviewer observed his race, he was told that the position had been filled. His application form was then annotated to the effect that he had had prior hotel experience and would therefore be a "poor security risk" for a watchman's job.

Pursuant to its investigatory authority, the Commission reviewed the employment background of other watchmen employed by the respondent and it was found that persons with analogous backgrounds had been hired. The Commission also determined that the complainant's hotel experience had taken place more than 20 years ago. It did not, therefore, appear plausible, even accepting the complainant's position that persons with prior hotel experience were "poor security risks", that such experience would be invoked despite the passage of more than two decades. In addition, it was noted that the Negro complainant's application form had included this prior experience so that it was known to the respondent from the outset.

The restaurant's overall pattern of employment was such that no single job classification contained both white and Negro incumbents. Rather, each job classification was staffed *exclusively* by either white or Negro employees. Negroes were employed as bus boys, bus girls, dishwashers and porters. White employees were employed as bakers, waitresses, cooks, and cashiers. It was concluded that the Negro complainant had been denied employment because of the respondent's policy of racial segregation by job classification.

Subsequent efforts at conciliation resulted in the payment of accrued back wages to the complainant as well as execution of a conciliation agreement calling for desegregation of all phases of employment.

The firm's implementation of the conciliation agreement is currently under review.

⁹ Ohio Revised Code, Section 4112.01(G).

SPECIAL ISSUES CONCERNING PLACES OF PUBLIC ACCOMMODATION

Administrative Process

The Commission's responsibilities relative to places of public accommodation is especially relevant in view of the current debate over pro-federal legislation on the subject.

The denial of equal service at places of public accommodation has been a factor in much of the racial turmoil throughout the nation. Thus, action of the General Assembly, in 1961, of adding administrative provisions to Ohio's then existing laws prohibiting such discrimination, or significant development for intergroup relations in Ohio. The original statutes, enacted in 1884, required an aggrieved party to institute action for the recovery of civil damages or to file criminal charges in comprehensive study by the Ohio Civil Rights Commission, in demonstrated that relief and redress were difficult to obtain under provisions.

The public accommodations statute which the Commission administers (effective October 24, 1961) did not repeal the older civil and criminal statutes, but provided additional *administrative* remedies. The effect of the administrative procedure has been demonstrated by the fact that in sworn affidavits were submitted during the current reporting year (in connection to 42 charges which were deemed to be invalid allegations or were not accompanied by affidavits). It is believed that the number of public accommodations cases filed with the Commission since 1961, exceeds the total number of charges which had been filed under prior civil and criminal statutes. This is especially significant in view of the fact that the administrative remedies provide for no monetary award (other than actual "out-of-pocket" expenses which may be attributable to the act of discrimination) in contrast to possible awards or fines to \$500 under the civil and criminal provisions.¹⁰

¹⁰ The statute provides for a fine of \$100 to \$500 for failure to post a sign summarizing the applicable provisions of law. This is in the nature of a fine for violation of a procedural aspect of the law and does not inure to a complainant. The Commission has found it necessary to utilize this provision on only one occasion. Compliance was obtained and no fine was imposed. It should be noted, too, that a fine is not imposed by the Commission, but by a court. The Commission's authority to require payment of "out-of-pocket" expense derives from Section 4112.05(C) which specifies that a cease and desist order may include "such further affirmative action as will effectuate the purposes of . . ." the law.

Barbershop Provisions Ruled Invalid

On May 3, 1963, the provision of the public accommodations law which includes barbershops as places of public accommodations, was held to be unconstitutional by the Court of Common Pleas of Greene County on the grounds that it would require a barber to "acquire a skill . . . (the knowledge of how to cut the hair of a Negro) . . . which he denies he possesses . . ." ¹¹

The case in question arose in November, 1961, when a Negro resident of Yellow Springs filed an affidavit to the effect that he had been refused a haircut by a local barber because of his (the complainant's) race. This charge was substantiated and the Commission attempted to obtain voluntary compliance. These efforts were not successful and the Commission was, pursuant to law, obligated to hold a formal hearing on January 16, 1962. The hearing examiner, Professor Roland J. Stanger, of the College of Law of Ohio State University, found—on the basis of the evidence adduced at the hearing—that the complainant had been refused service solely because of his race and a cease and desist order was subsequently issued. This order was nullified by the aforementioned ruling of the Green County Court of Common Pleas.

The Commission is precluded from appealing the ruling of partial unconstitutionality inasmuch as the relevant statutes do not expressly confer this procedural right. The complainant has, however, filed an appeal in the Court of Appeals, Second Judicial District, and the Attorney General of Ohio will submit a brief, as a "friend of the court" taking the position that the whole statute is constitutional.

The Commission believes that legislation should be enacted which will enable it to appeal from court decisions under certain circumstances. Such rights, available to a number of regulatory agencies in Ohio, would facilitate the effective administration of Ohio's anti-discrimination statutes by removing the burden of appeal from a complainant whose resources may be inadequate to sustain the costs of litigation. (See Recommendation on Page 33.)

Cemeteries Deemed Places of Public Accommodation

Another major development with respect to public accommodations, during the current reporting period, was a ruling by a hearing examiner, that cemeteries constitute "places of public accommodation", although not specifically set forth in the statute. On the basis of a resulting cease and desist order against a cemetery which had refused to inter the remains of a Negro decedent, the cemetery has submitted a statement of compliance. This case is summarized under "Illustrative Case Summaries—Public Accommodations" (case No. I).

¹¹ Gagner vs Graham, Court of Common Pleas of Greene County, Case No. 34893.

Purported Clubs

A matter which the Commission has frequently encountered in course of investigations is the claim by places of public accommodation that they are "private clubs" for the exclusive use and patronage of "members". There is, of course, no question that non-profit *bona fide* private clubs or organizations may be established for the exclusive use of their actual members and guests. The anti-discrimination statutes of the State vest the Commission with no jurisdiction over the structure, organizational purposes, or membership policies of such *bona fide* groups. The issue which the Commission is concerned, and over which it has jurisdiction, is the issue of establishments which, though open to the general public and operated for profit, nevertheless wish to exclude one or more segments of the public because of race, color, religion, national origin, or ancestry by purporting to be "clubs" when confronted by members of the group whose patronage is not desired.

The device of purported private clubs was noted by the Commission in an earlier publication.¹² The issue of whether an establishment constitutes a club or a place of public accommodations has also been raised under Ohio's civil and criminal statutes¹³, prior to the 1961 amendment. The utilization of purported clubs varies. Prospective Negro patrons have, at times, simply been told that an establishment was a "club". Other instances have involved more elaborate procedures, such as the issue of "membership cards" upon payment of a nominal sum and the use of "sponsors" as a prerequisite to admission. Still more elaborate techniques have included the establishment of non-profit corporations whose charters set forth a variety of non-commercial, social purposes. Such corporations are then leased or assigned to the facilities of a commercial establishment, or denial of access, to the establishment is ostensibly governed by the non-profit lessee or assignee. Investigation has often revealed that purported "clubs" to be extremely lenient in their admissions practices while persons seek admission, but that the full array of "membership requirements", including sponsorship, screening by a "membership committee", and other factors, comes into play when a Negro seeks admission. The disparity in procedures, as applied to majority and minority groups, mitigates the assertion that a *bona fide* club is involved.

The facts and circumstances differ from instance to instance and the Commission has necessarily operated on a case-by-case basis. The frequency

¹² See *Discrimination in Public Accommodations in Ohio, A Report By the Civil Rights Commission*, December 1960, p. 17.

¹³ See *Gillespie v. Lake Shore Golf Club, Inc.*, 56 Ohio L. Abs 222, 91 2nd 290 (1950) where a golf club was held to be a place of public accommodation despite the assertion that it was a club for the exclusive use and enjoyment of members.

with which this problem has been encountered, and the broad range of establishments which have claimed to be "clubs" (golf courses, dance halls, skating rinks, taverns, swimming pools, fishing lakes) has made it necessary to research prior cases and decisions rendered by the courts of Ohio and other states. The office of the Attorney General, which serves as the Commission's legal counsel, is currently conducting this legal research and it is anticipated that the findings will be of substantial value to the Commission in equitably resolving cases involving the existence of *bona fide* or purported clubs.

ILLUSTRATIVE CASES — PUBLIC ACCOMMODATIONS

I

A Negro complainant alleged that she had received an advertising circular from a cemetery, soliciting the purchase of a burial plot. Shortly thereafter, upon the death of her grandmother, the complainant attempted to purchase a plot from the same cemetery, but was refused on the grounds that it did not accept the remains of colored persons. The Commission's investigation verified this incident and the cemetery's representatives acknowledged that the incident represented their consistent practice.

Intensive efforts by the Commission to bring about voluntary and prompt compliance, so as to minimize the indignity to the deceased and to the survivors, were consistently rejected on the grounds that cemeteries were neither enumerated in, nor contemplated by, the Ohio Public Accommodations Law.

The consequent failure to conciliate the case resulted in a formal hearing, as prescribed by law. All facts were stipulated and the arguments related solely to the issue of whether or not cemeteries were places of public accommodation. The hearing examiner ruled that they were, and the Commission thereupon issued a Cease and Desist Order, requiring that the cemetery inter the remains of the Negro decedent; that it discontinue its discriminatory practices; and that the complainant be reimbursed for expenses incurred in connection with the temporary maintenance of her grandmother's remains, pending the outcome of the case.

The opinion of the Hearing Examiner stated, in part:

"A place to be buried and burial represent, at even minimal evaluation, a substantial accommodation to those who survive whether in the immediate family or the community at large. Obvious considerations of health, emotion, and convenience demonstrate the various useful consequences which accrue to the disposal of dead bodies. Add to the respondent's admitted capacity to perform the burial accommodation, the general, broadside appeal in its letter received by the complainant . . . its importuning for customers at an implicit price, and its generic similarity, i.e., as a public accommodation, is apparent. On the other

hand where it differs from the types of businesses named in the . . . it differs primarily in the kind of product or service it renders . . . difference of no legal significance."

The cemetery subsequently complied with the Cease and Desist and interred the Negro decedent. No appeal was taken from the

II

"First class" restaurants in Ohio, by and large, serve all patrons out discrimination. Frequent problems are, however, encountered in connection with less elaborate eating places in which the proprietor frequents and in which a degree of intimacy may exist between the proprietor and his clientele.

In one such establishment—a small restaurant obviously open to the public—a prospective Negro patron was refused service on the grounds that the restaurant was a "club" in which the Negro did not hold membership.

During the ensuing investigation, the proprietor was unable to produce any indicia of a *bona fide* club, although he proffered a membership card which he wished to distribute to "members". The respondent counsel ultimately agreed that the establishment was a public accommodation as defined by law, irrespective of the proprietor's wish to discriminate against Negroes. The Commission stressed, in the course of negotiations, the attributes of a non-profit *bona fide* club, on the one hand, and the proprietorship for profit, on the other, were mutually exclusive.

This matter was resolved by means of a written conciliation agreement which specified that the establishment would serve all patrons regardless to race, color, religion, national origin, or ancestry.

III

Discrimination in places of public accommodation has frequently taken the form of varying degrees of *limitation of service*, rather than an outright refusal to extend any service at all. This was illustrated by a case involving three Negro males who were refused beverage service on the premises of a cafe, but were informed that they could buy the beverage for off-premises consumption. Noting that the cafe had facilities for on-premises consumption, Negro patrons filed charges with the Commission.

Upon investigation, the above incident was verified. It was determined that the cafe was located in a neighborhood which was experiencing a transition and the owner appeared genuinely fearful that he would lose white customers if he served Negroes.

¹⁴ Shortly after this case was concluded, two more cemeteries deleted discriminatory language from their contracts.

Negotiations were conducted which concluded with the execution of a conciliation agreement in which the cafe's proprietor agreed to comply with the provisions of the public accommodations statute. Subsequent compliance reviews revealed that the agreement had been kept; that Negro and white patrons were being accorded equal treatment; and that there had been no diminution of business at the cafe.¹⁵

IV

Racial discrimination is practiced not only against adult members of minority groups (including deceased persons as noted in case I) but against persons of tender years as well.

This was illustrated by a case in which the owner and employee of a barbershop refused, on several occasions, to cut the hair of a six year old Negro boy who was accompanied by his father. Various subtleties included assertions that the shop operated by appointment only and that no appointments were available for a month, as well as requesting inordinate charges for cutting the boy's hair.¹⁶

In the course of negotiation, the owner of the shop agreed that he would personally not discriminate, but he refused to accept liability for the acts of his employees. The Commission contended that the traditional doctrine of law, whereby an employer is held liable for the acts of his employees performed within the scope of their authority, was applicable. An agreement was eventually reached whereby the owner of the shop agreed (1) that he would not discriminate; (2) that he would instruct his employees—in writing—not to discriminate; and (3) that he would promptly and effectively repudiate any discriminatory acts which his employees might perform despite their explicit instructions to obey the law.

As is true in the great majority of cases, the shop subsequently served the Negro complainant and was thereafter found to be in compliance with the law.

¹⁵ Another form of limitation of service takes the form of limiting service to one drink and refusing any additional service. This practice has been discontinued as a result of the Commission's efforts and none of the pernicious consequences which the owner had predicted—loss of business; altercations, etc.—have materialized.

¹⁶ The device of overcharging has been employed in a number of cases. One involved a charge for a glass of water. Another involved a thousand per cent increase in admissions fees. The Commission has recovered such overcharges on behalf of the complainants.

EDUCATIONAL PROGRAM

Review of Prior Programs

Recognizing that a law concerned only with enforcement would be sufficient to improve intergroup relations effectively, the Ohio Employment Practices Act requires the Commission to develop a comprehensive educational program designed to help eliminate and emphasize origins of prejudice as well as its harmful effects and incompatibility with democratic principles. The law requires the Commission to work in operation with the State Department of Education in connection with foregoing.

In order for the Commission to meet needs on both the local and State level, a State Educators' Advisory Committee and four Regional Educators' Advisory Committees were created. As a result of the program developed in cooperation with these committees, the Commission's educational activities have involved educators and others from all areas of community life and from throughout Ohio in a new venture to improve intergroup understanding and relations.

The Commission has consistently sought to take the approach of professional educator to intergroup problems, i.e., to be as thorough as possible with the various problems of education as well with what already has been done and is currently being done in intergroup education in Ohio.

As has been expressed in the Commission's publication, *COUNCIL ON MINORITY GROUP YOUTH*, "We place our confidence in Ohio schools' growing ability to meet the educational needs of all our youth and in the belief that to the degree that we fulfill our goals as educators of children of different racial and ethnic backgrounds will automatically be assured equality of opportunity."

What educators include among their goals, however, must be evaluated. For this reason, the publication quoted above states that the goals "must be broad enough to include an effort to overcome those differences in boys and girls which are created by socio-economic inequities."

To define intergroup education as merely the process of supplying information about various groups in our society would be to limit the Commission's educational activities to an ineffective and out-dated educational approach to a problem which requires the most objective and future programming available. The most convincing lesson in equality is

experience it as a fact. The Commission considers that one of its primary educational goals is to make such experiences available.

The Commission has, therefore, developed programs for public, private, and parochial school superintendents; local school boards; classroom teachers; principals; counselors; parents and pupils. Programs have also been developed for labor, management, public and private agencies, educational and other professional associations, youth service agencies, university students and faculties and many other persons and groups. A detailed report of activities prior to the current reporting period is contained in the Commission's *Third Annual Report*, July, 1962.

EDUCATIONAL ACTIVITIES DURING 1962-63

Counselor Handbook Meets State and National Need

The Commission, in cooperation with the Ohio State Department of Education, published COUNSELING MINORITY GROUP YOUTH, January, 1963, a 139-page illustrated and documented manual for counselors and other educators. Since its publication, the handbook has been well accepted by Ohio teachers, counselors, and administrators and has gained national recognition as the only one of its kind in the United States.

The manual, designed to develop better understanding of minority group youth, has been distributed to every counselor in Ohio's public schools, numerous administrators, supervisors, and principals in most of Ohio's school systems with large minority group populations; private and public intergroup agencies; public and university libraries; professors of counselor education and other university personnel, as well as to counselors with the Bureau of Unemployment Compensation; human relations institutes; and elsewhere. The first printing of 7,000 copies was completely distributed and a second printing of 1,500 is nearly exhausted. A third printing, of approximately 3,500 copies, is planned to meet the increasing demands for Ohio college and university counselor education programs and public school in-service training workshops.

Counselor Education Program Reaches All Counselors

Through the distribution of the counseling manual and an intensive in-service and pre-service information and education program, the Commission has involved virtually every Ohio counselor in programs relating to a better understanding of minority groups and to the significance of fair employment practices legislation for the counseling profession.

At Akron University, Miami University, Kent and Ohio State Universities, The University of Toledo, Ohio University, and the University of Cincinnati, the Commission's staff has developed programs affecting

over 400 counselor education majors. These students—including in graduate students working full-time in schools—participated in workshops, classes, and seminars which stressed the manner of counseling minority group youth so that they will become aware of and prepare for a broad spectrum of occupations, based upon interests and abilities rather than group origins.

In-service workshops also affected over 600 counselors in Cleveland, Cincinnati, Dayton, Warren, Springfield, Lorain, Middletown, Portsmouth, Hamilton, New Boston, Xenia, Miamisburg, Oakwood, Vandalia, West Carrollton, Oberlin, Wellington, Elyria, Amherst, and Butler, Montgomery, Greene, Trumbull, Clark, and Lorain county school systems. Counselors in numerous other schools had been contacted previously.

Committee Formed to Work for Equal Opportunity in Apprenticeship Training

The Commission, in March 1963, instituted an affirmative program to encourage more equal opportunities in Ohio's apprenticeship training programs. An advisory committee is being organized and will hold its first meeting in August, 1963. It is expected that 1963 and 1964 will see extensive programming in this area of concern.

Teacher and Principal In-Service Training

The Commission continues to obtain outstanding cooperation efforts to promote in-service training in intergroup understanding and the learning process. Programs have been conducted with Afton, Toledo, Cleveland, Columbus, Lima, Middletown, Knox County, Cleveland, Dayton, and Lakewood city schools. In addition to these projects, numerous planning conferences for future programs have been held with local school administrators throughout the state.

Teachers and administrators also worked with the Commission in various workshops, conferences, and seminars outside the elementary and secondary schools. Programs were conducted cooperatively with various universities' Human Relations Workshop and Department of Education; the Department of Elementary School Principals of the Ohio State University's Human Relations Association; the Ohio State University's Human Relations Institute; various local Urban Leagues; Heidelberg College; the Defamation League of B'nai B'rith's statewide conference on group education; the Cleveland Public Schools; Kent State University's Western Reserve University; University of Cincinnati; Miami University of Cincinnati; and Central State College.

Principals Receive FEP Information

Because of their responsibility for maintaining school records, principals in all Ohio public junior and senior high schools were informed by letter that employers should receive no unlawful data ¹⁷ regarding students seeking jobs. The letter explained that the Ohio State Fair Employment Practices Act is applicable to distributive education and apprenticeship training programs. Superintendents also received copies of the letter, which reached over 1,500 administrators for 846,900 pupils in Ohio.

General Programming Affects Parents, Students and Most Aspects of Ohio Life

Although a small agency in terms of staff, the Commission is deeply aware of the broad responsibilities and challenges of its education program. Convinced that a program of this nature should not concentrate on school people alone, the Commission has made efforts to reach the general public as well.

The Commission has developed two exhibits which illustrate its programs in fair employment, public accommodations, research, and education. These exhibits were viewed by an estimated 3,200 persons this year and were widely used throughout the state. Speaking engagements also continue to be used as a means of informing numerous organizations about the Commission and its program. Commissioners and staff have met with a variety of groups ranging from public school pupils in rural areas to the leadership of business and industry in our large metropolitan centers. It is estimated that the two education staff persons reached more than 6,000 people in public meetings during this reporting period. Problems of drop-outs, migrant families, Spanish-speaking Ohioans, minority group youth, housing and education all are issues about which Commissioners and staff have served as resource persons.

Intergroup Relations Teaching Unit

In April, 1963, an advisory group of educators met with the Commission's staff to plan a suggested intergroup relations teaching unit, which will be used experimentally in a number of high school "Problems of Democracy" classes prior to state-wide distribution. Construction of this unit is currently in process.

De Facto Segregation Information Booklet

Because of a growing concern among school administrators about the meaning of court decisions on *de facto* school segregation, the Com-

¹⁷ Unlawful data, as defined by law, includes information relative to race, color, religion, national origin or ancestry.

mission has published *Legal Trends in De Facto School Segregation: The Meaning for Ohio's Public Schools* (December, 1962). The book has been distributed to all of Ohio's public school superintendents as well as to college and university departments of education and social work and to various other relevant public and private organizations. The book was published in the hope that its contents (summaries of recent decisions dealing with racial segregation in the North) would be of help in dealing with local situations of *de facto* racial segregation brought about by the composition of neighborhoods, school site selection, etc.

Future Activities

In May 1963, the Commission undertook the development of an intergroup education program for elementary school parents, teachers, administrators and pupils. An advisory committee of consultants will assist in the preparation of this program.

The absence of any racially integrated vocational guidance film and other visual aids, designed to inform Ohio youth about the employment reality of equal job opportunities, is of concern to the Commission. To meet some aspects of this need, the Commission has been using excellent but highly specialized vocational slide film entitled "You (and Your Community) in the Future" which was developed by the Columbus Urban League.

Much of the Commission's program has become largely self-perpetuating and will continue as on-going services. School administrators, organizations, and community leadership generally show a sincere and deepening interest in the use and further development of the Commission's programs and services at the local level.

RESEARCH AND SURVEY

Prior Surveys

The Commission's statutory responsibilities, in addition to the enforcement of the employment and public accommodations provisions, include "... periodic surveys of the existence and effect of discrimination because of race, color, religion, national origin or ancestry on the enjoyment of civil rights by persons within the state."¹⁸ Prior surveys have included *Discrimination in Public Accommodations in Ohio* (1960) and *Survey of Ohio College and University Placement Offices with regard to Job Placement of Students* (1962).

Housing Survey

Within the current reporting year, the Commission discharged this function by conducting a survey of *Discrimination in Housing In Ohio*—the most comprehensive of the Commission's research projects thus far.

The survey and report on housing drew upon numerous sources of information. These sources included the existing literature in the field as well as fifteen public hearings which were held in Akron, Canton, Cincinnati, Cleveland, Columbus, Dayton, Lima, Newark, Portsmouth, Steubenville, Toledo and Youngstown. The selection of the foregoing communities was designed to provide a valid cross-section of Ohio in terms of geographic and demographic criteria.

Prior to the hearings, invitations were sent to local public and private community relations agencies; individuals known to have an interest in the subject (i.e., educators, clergymen, public officials, etc.); real estate brokers and representatives of local real estate boards; mortgage lending institutions and representatives of savings and loan institutions; residential builders and developers and representatives of home builders' associations. In addition, other parties who appeared and wished to submit statements were afforded an opportunity to do so.

Inasmuch as a comprehensive report of the findings has already been published and distributed,¹⁹ only the conclusion need be repeated:

"... There exists throughout Ohio a consistent pattern whereby Negroes, and other minority groups, are denied a free choice in housing Patterns of exclusion, discrimination and segregation

¹⁸ Ohio Revised Code, Section 4112.04 (A) (7).

¹⁹ See *Discrimination in Housing in Ohio*, January 1963, available from any office of the Commission.

constitute a major component of the practices of the housing real estate business, broadly defined to include real estate brokers, salesmen, landlords, builders and developers, mortgage lending institutions, and governmental housing agencies"²⁰

This conclusion was based not only upon the testimony and evidence of some 250 persons who represented various racial, national, and religious groups, but also upon testimony and evidence of representatives of the real estate and construction industries as well as lending institutions and associations.

In accordance with its statutory responsibility that its reports to "... include . . . recommendations . . . as to remedial action, legislative and otherwise,"²¹ the Commission's report was accompanied by a recommendation that legislation be enacted, comparable in scope to the legislation which was documented by the Commission's findings. Legislation was introduced into the Ohio House of Representatives but failed of passage without a floor vote.

Future Surveys

The Commission is currently structuring the design and format of a study regarding the placement and assignment of teachers by Ohio's public school systems, as well as other aspects of public school employment practices. The Commission believes that such a survey is warranted in view of the positions of the public schools as governmental agencies as well as the very substantial number of persons employed in the agricultural sector throughout Ohio by the public schools.

²⁰ *Discrimination in Housing in Ohio*, *op cit*, p. 48.

²¹ Ohio Revised Code, Section 4112.04(A) (8).

EXECUTIVE CODE OF FAIR PRACTICES

GOVERNOR'S CODE SUPPLEMENTS STATUTE

The provisions of the Ohio FEPA specifically cover "... the state, or any political or civil subdivision thereof . . ." and a number of cases have related to various departments of State government in their capacity as employers.

Despite the existing statutory inclusion of the State, the Commission was gratified when, on June 27, 1963, Governor James A. Rhodes issued the following "*Executive Code of Fair Practices*".

Article I

STATE PERSONNEL

"State officials and supervisory employees shall appoint, assign, and promote State personnel on the basis of merit and fitness, without regard to race, color, religion, national origin or ancestry.

Article II

ACTION BY THE STATE

"In performing their service to the public, the agencies of the State shall not discriminate because of race, color, religion, national origin or ancestry, nor shall they authorize or permit the use of State facilities in furtherance of discriminatory practices.

Article III

CONTRACTS

"Each and every State contract for public works or for goods or services shall contain clauses prohibiting discrimination on account of race, color, religion, national origin or ancestry.

Article IV

STATE EMPLOYMENT SERVICES

"Any State agencies engaged in employment referral and placement services for private industry or public agencies shall fill all job orders on a non-discriminatory basis, and shall decline any job order possessing

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a specification or restriction as to race, color, religion, national origin or ancestry. There shall be no bar by any agency of the State to the Civil Rights Commission in its pursuit of information necessary to arrive at factual conclusions in any matter directed to it.

Article V

TRAINING

"All educational and vocational guidance counseling programs, all apprenticeship and on-the-job training programs of the State shall be conducted to encourage the fullest development of interests and aptitudes without regard to race, color, religion, national origin or ancestry.

Article VI

FORMS

"All State agencies shall avoid in forms or requests for information any item or inquiry expressing any specification or limitation as to race, color, religion, national origin or ancestry.

Article VII

REGULATORY AGENCIES

"In those instances where a respondent in a proceeding before Ohio Civil Rights Commission is subject to the licensing or regulatory power of another State agency, the Ohio Civil Rights Commission shall notify the State agency of the currency or pendency of such proceeding. If, thereafter, the respondent is found, by the Ohio Civil Rights Commission, after notice and an opportunity to be heard, to have engaged in a discriminatory practice, the State agency shall be so notified and shall take appropriate action consistent with the exercise of its licensing regulatory power.

Article VIII

DEPARTMENT

"State officials and employees shall remain aware of the State's history and laws that prohibit discrimination on the basis of race, color, religion, national origin or ancestry and shall take all steps necessary to effectuate the provisions and intent of this Fair Practices Code.

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Article IX

CODE AND LAWS POSTING

"Copies of this Code shall be distributed to all State officials, supervisory personnel and along with copies of the Summary of Provisions of the Ohio Fair Employment Practices Law, shall be posted in a conspicuous location in all State facilities."

The Commission believes that the foregoing code provides additional substantiation of the determination of the State of Ohio to live up to the same obligations which devolve upon private industry.

In addition to the issuance of the foregoing Executive Code, the Governor also established a special committee to provide assistance to firms which wish to implement a voluntary program of merit employment. Appointed to this committee were Mr. William O. Walker, Director, Department of Industrial Relations (Chairman); Mr. Martin A. Janis, Director, Department of Mental Hygiene and Correction; Mr. Denver L. White, Director, Department of Public Welfare; Mr. Llewellyn A. Coles, Assistant to the Governor; and Mr. Wayne Ward, Director of Personnel.

ADMINISTRATION AND BUDGET

The Ohio Civil Rights Commission has made every effort to minimize its expenditures and, at the same time, to perform its statutory responsibilities to the public at an adequate level. The following steps were taken during the current reporting year in order to comply with the budgetary guidelines, inclusive of the 9.1 per cent reduction in expenditures, which had been specified for State agencies.

1. Personnel vacancies brought about by voluntary resignations have not been filled. Included in this category were three Investigators III.
2. Three Central Office positions were eliminated. These include the positions of Administrative Assistant as well as the position of Survey and Research Director and Director of Public Accommodations.
3. No expenditures have been made for new equipment except that which were involved in a move from Central Office headquarters at 22 East Gay Street, Columbus, to a state-owned, rent-free building in June, 1963. The overall impact of the move is expected to result in substantial savings.
4. Expenditures for maintenance (office rent, travel, supplies, postage etc.) have been curtailed as much as possible.
5. Two state cars have been returned to the motor pool. At the present time, only one state car is assigned to the Commission.
6. Equipment which was released by the aforementioned reduction in staff has been turned back to the Division of Purchasing of the Department of Finance.

Total expenditures during the fiscal year 1962-1963, and projected for 1963-1964 are shown below:

	ACTUAL 1962/63	PROJECTED 1963/64
Personal Service (Staff & Commissioners)	\$179,742.92	\$161,000.00
Maintenance (office rent, travel, supplies, postage, etc.)	51,661.11	44,000.00
Equipment	3,073.46	—0—
TOTAL	\$234,477.49	\$205,000.00

As of June 30, 1963, the Commission staff consisted of 22 persons exclusive of the five Commissioners as specified below :

CENTRAL OFFICE STAFF

Administrative		Education Department*	
1 Executive Director		1 Director of Education	
1 Office Manager		1 Assistant to the Director	
2 Clerk Stenographers		1 Clerk Stenographer	
NORTHEAST REGIONAL STAFF**		SOUTHWEST REGIONAL STAFF**	
1 Regional Director		1 Regional Director	
2 Investigators		2 Investigators	
2 Clerk Stenographers		2 Clerk Stenographers	
SOUTHEAST REGIONAL STAFF**		NORTHWEST REGIONAL STAFF**	
1 Regional Director		1 Regional Director	
1 Clerk Stenographer		1 Investigator	
		1 Clerk Stenographer	

* The activities of the Education Department are State-wide in scope.
 ** Each Regional office covers approximately one-fourth of the State.

RECOMMENDATIONS

I. RIGHT TO APPEAL

As noted elsewhere in this report, the present apparent inability to appeal from adverse court decisions regarding the constitutionality of provisions of law administered by the Commission, and related matters imposes the burden of appeal upon the complainant whose resource he inadequate to sustain the resulting costs. This procedure prevents Commission from seeking appellate review of matters of substantial importance to the implementation and interpretation of Ohio's anti-discrimination legislation.

The Commission believes that it should be given authority to appeal similar to that which is currently granted by statute (Administrative Procedures Act) to numerous other agencies of Ohio. The following proposal is designed to effectuate this purpose.

A BILL

To enact Section 0000.00 of the Revised Code to enable the Ohio Rights Commission to appeal from adverse court judgments on grounds of law and sufficiency of evidence.

Be it enacted by the General Assembly of the State of Ohio:

SECTION I: That Section 0000.00 of the Revised Code be enacted to read as follows:

Section 0000.00(A). The Ohio Civil Rights Commission may, at its discretion, appeal from an adverse judgment rendered by a court. Such appeal shall proceed as in the case of appeals in civil actions as provided in Section 2505.01 to 2505.45, inclusive of the Revised Code. Such appeal by the Commission shall be taken on questions of law relating to the constitutionality, construction or interpretation of the statutes and regulations of the Commission and in matters involving the correctness of the judgment of the Court of Common Pleas that an order of the Commission is not supported by substantial evidence. Such appeals shall be taken regardless of the fact that a proceeding was pending prior to the enactment of this Section expressly authorizing such appeals, provided such appeals are perfected by the filing of Notice of Appeal within the time provided by Section 2505.07 of the Revised Code.

Section 0000.00(B). Nothing in this Section shall be deemed to affect in any manner any provision in Section 4112.01 through 4112.04

inclusive, and 4112.99 of the Revised Code relative to the rights of any party, inclusive of the Commission, to seek such other court action as is provided by said Sections of the Revised Code.

II. ADMINISTRATION OF OATHS

The Commission believes that legislation should be enacted which would enable all Commissioners and staff to administer oaths. At present, the Revised Code (Section 4112.04-A-B) provides that the Commission may "administer oaths" but it is not clear whether or not this authority has thereby been granted, by law, to staff members who are not attorneys or notaries public. Even if all staff members were to secure notary public commissions, their authority to administer oaths would apparently not extend beyond their counties of residence (with the exception of attorneys who may obtain state-wide authority), and adjacent counties.

The practical problem which confronts the Commission is that a substantial number of charges, which must be submitted under oaths, are filed outside of the communities in which Commission offices are located. Frequently notary service is not immediately available. Thus, it is a matter of necessity that there be no doubt as to the authority of staff members to administer oaths, in order to accept charges, as well as to take other person's sworn testimony when necessary.

The following proposal is designed to effectuate the foregoing:

A BILL

To enact Section 0000.00 of the Revised Code to enable staff members of the Ohio Civil Rights Commission to administer oaths in any county of the State.

Be it enacted by the General Assembly of the State of Ohio:

Section 0000.00. All agents and employees of the Ohio Civil Rights Commission may administer oaths and accept acknowledgments of affidavits in any county, in the course of their duties relative to their employment by the Ohio Civil Rights Commission.

APPENDIX I

ILLUSTRATIVE COMPLAINT AND NOTICE OF HEARING BEFORE THE OHIO CIVIL RIGHTS COMMISSION ²²

DESIGNATION
OF
RESPONDENT

Case No.

COMPLAINT AND NOTICE OF HEARING

"The Ohio Civil Rights Commission states that..... hereinafter referred to as respondent, is a... Corporation licensed to business in Ohio... that respondent owns and operates a place of public accommodation within the purview of Chapter 4112, Ohio Revised Code to wit: a cemetery....

"The Ohio Civil Rights Commission further states that... (the complainant)... filed a complaint with the Commission charging respondent with an unlawful discriminatory practice in violation of Section 4112.02 (Ohio Revised Code.

"Respondent is hereby charged with unlawful discriminatory practice in violation of Section 4112.02(G), Ohio Revised Code, to wit:

"1. That Respondent on or about... denied to complainant the enjoyment of the accommodations, advantages, facilities or privileges respondent's place of public accommodation... in that respondent refused to sell and make available to complainant the facilities and services of cemetery for the purpose of the burial of the dead human body of complainant's deceased grandmother, because complainant... and deceased grandmother... are Negro, and because of their race and no other reason.

"2. That respondent engages in a general policy and practice of discrimination against persons, including the relatives of, next of kin administrators and executors of the estates of deceased human beings because of race, in violation of Section 4112.02(G), Ohio Revised Code by denying to such person because of their race, and not for reasons applicable alike to all persons regardless of race and color, the full enjoyment of the accommodations, advantages, facilities, or privileges of respondent's place of public accommodation....

²² Issued in the course of Illustrative Case Summary—Public Accommodations. No. I on p. 18.

"The Commission further states that, pursuant to its finding, there is probable cause to believe that the above stated charges of unlawful discriminatory practices are true.

"The Commission has attempted to effect informal method of persuasion and conciliation pursuant to Section 4112.05(A), Ohio Revised Code, for the purpose of inducing voluntary compliance with Section 4112.02(G), Ohio Revised Code, and said attempts to obtain voluntary compliance have failed.

"The Commission states that the dead human body of . . . deceased grandmother of complainant, is temporarily held pending disposition of this action, at a cost and expense over and above that necessary for the decent burial of said dead human body in respondent's cemetery according to complainant's rights under Section 4112.02(G), Ohio Revised Code.

"Respondent is herewith notified that a public hearing on the above charge of unlawful discriminatory practices will be held on . . . at 9:00 A.M. in the Chambers of the City Council, City Hall, . . . before . . . attorney and counselor at law, duly appointed Hearing Examiner by the Commission pursuant to Section 4112.05, Ohio Revised Code. Respondent is further notified that an answer to this complaint may be filed with the Commission within ten days of service of this complaint and notice of hearing, pursuant to Section 4112.05(C), Ohio Revised Code and Rule 6 of the Rules and Regulations of the Ohio Civil Rights Commission. At such hearing Respondent may appear in person or by its attorney, or Respondent may present its position, arguments and contentions in writing and may present evidence and examine witnesses appearing for and against such Respondent.

"This Complaint and Notice of Hearing is issued this . . . day of . . . , 19"

APPENDIX II

ILLUSTRATIVE CEASE & DESIST ORDER ²³

IN THE MATTER OF
(RESPONDENT)
Case No.

COMMISSION ORDER

"This matter comes upon a complaint of . . . , the transcript of hearing on said complaint, the findings of fact, conclusions of law, recommendations of the hearing examiner and the objections of respondent

"The Commission finds:

"1. That the findings of fact of the hearing examiner are fully supported by the testimony and evidence in the record.

"2. That the hearing examiner's conclusions of law are justified view of his findings of fact and the operation of Chapter 4112., Revised Code.

"3. That the complainant has incurred expenses as a consequence respondent's unlawful discriminatory practices.

"4. Therefore, the Commission fully and completely adopts the findings of fact, conclusions of law and recommendations of the hearing examiner . . . , filed in this cause with the Commission. For the purpose clarification of this order, *CONCLUSIONS OF LAW, Section 1, of hearing examiner is hereby set forth:*

"1. Respondent . . . , in operating a cemetery and burial park for interment of dead bodies (not including those sectors reserved religious and fraternal groups which are not in issue here) proprietor of a place of public accommodation within the meaning of Revised Code 4112.01 (I) and Revised Code 4112.02(G).

"It is therefore ORDERED by the Ohio Civil Rights Commission that respondent (its successors and assigns), be and are hereby ORDERED to cease and desist from any and all unlawful discriminatory practices the denial of the advantages, facilities and privileges of respondent's place of public accommodation, to-wit, those public sectors included in a cemetery

²³ Issued in course of Illustrative Case Summary—Public Accommodations I on p. 18.

currently known as . . . (not including those sectors reserved for fraternal and/or religious groups) to complainant herein, or hereafter to any other person or persons as required by Chapter 4112., Revised Code.

"It is further ORDERED that the complainant be made whole for expense incurred due to the unlawful discriminatory practices of the respondent.

"This order does not encompass those sectors of respondent's establishment which are currently reserved for religious and fraternal groups, . . . provided that, in the event the current contractual relationships between the respondent and the aforementioned groups are terminated, said sectors shall be deemed to fall within the provisions of this order.

"Pursuant to Section 4112.02(G), Revised Code, respondent, successors and assigns, are hereby ORDERED to file a sworn statement in the Ohio Civil Rights Commission at its Northeastern Regional Office, Lawyers Building, 1302 Ontario Street, Room 301, Cleveland 13, Ohio, no later than the . . . day of . . . , 19 . . . affirming that said respondent fully and completely complies herewith.

"Issued by the Ohio Civil Rights Commission this . . . day of . . . , 19 . . .

ARTHUR L. PETERSON, CHAIRMAN
/s/ Arthur L. Peterson

C E R T I F I C A T I O N

"I, Ellis L. Ross, Executive Director of the Ohio Civil Rights Commission, do hereby certify that the above is a true copy of an original order issued against . . . and filed with the Commission at its central office in Columbus.

Ellis L. Ross
EXECUTIVE DIRECTOR

., 19

APPENDIX III

ILLUSTRATIVE CONCILIATION AGREEMENT — EMPLOYMENT

1. This Agreement is entered into in accordance with Ohio Revised Code Section 4112.05(A). It is agreed that nothing herein contains anything done hereunder shall in any way be interpreted as an admission of a violation of any provision of Section 4112.01 through 4112.08 of Ohio Revised Code, and further that this entire instrument being instrument of settlement and conciliation shall not be evidence in any or offered in evidence before a court or agency or the Civil Rights Commission, or otherwise be used to disadvantage of (respondent).

2. (Respondent) has adopted and will continue to apply an employment practice of nondiscrimination with regard to race, color, religion, national origin or ancestry, applicable to hiring, job assignment, upgrading motion, compensation, training and working conditions, and said shall be made known to all employees. Nothing herein contained affect or reduce management prerogatives with respect to hiring assignment, upgrading, promotion, compensation, training or working conditions, but no such prerogatives shall be used to violate the Civil Rights Act known as Sections 4112.01 through Section 4112.08 Ohio Revised Code.

3. Any Union representing (Respondent's) employees shall be advised of the Company's policy as above set forth, and similarly any persons in charge of recruiting employees shall be advised of the foregoing policy.

4. The selection, hiring and assignment shall be made in good faith on the basis of the Company's judgments as to qualifications, taking into account any proper qualification, it being understood that a disqualification because of race, color, religion, national origin or ancestry shall be deemed proper disqualification.

5. (Respondent) has accepted an application form from complainant and considers her employed on a probationary period, effective October 10, 1962, with full pay including overtime and agrees to give her a bona fide trial in its Production Department as such an employee. It is further understood and agreed that should complainant be laid off prior to completion of the probationary period, she shall be amon

²⁴ Entered into at conclusion of Illustrative Case Summary—Employment (on p. 12.

first group recalled for employment after the union seniority list is exhausted for that purpose.

6. Nothing herein contained shall constitute any contract of employment or promise of continued employment, it being understood, however, that any discontinuance of employment shall not be because of discrimination by reason of race, color, religion, national origin or ancestry.

7. Upon the signing of this Agreement by both parties and upon the employment of complainant, the Commission shall withdraw its formal complaint and the amendment thereto.

8. Within 30 days after the approval of this Agreement the Respondent shall furnish a compliance report to the Ohio Civil Rights Commission detailing the progress made in each of the foregoing recommendations and the Commission, on its initiative, may make compliance reviews in case it determines that there is probable cause to believe that (Respondent) has not complied with Ohio Revised Code Sections 4112.01 through 4112.08 of this Agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands this.....day of....., 19.....

.....
For: (Respondent)

Title:

.....
For: Ohio Civil Rights Commission

Title:

COMMISSION OFFICES

CENTRAL OFFICE

Room 234

240 Parsons Avenue

Columbus, Ohio 43215

253-8536

Northwest Regional Office

411 Gardner Building

506 Madison Avenue

Toledo, Ohio 43604

241-9164

Northeast Regional Office

301 Lawyers Building

1302 Ontario Street

Cleveland, Ohio 44113

241-0716

Southwest Regional Office

603 Schmidt Building

431 Main Street

Cincinnati, Ohio 45202

241-6605

Southeast Regional Office

Room 234-C

240 Parsons Avenue

Columbus, Ohio 43215

253-8536